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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/763,635 | 04/12/2002 | Hans Berg | 4988 | 3877 |

7590 01/28/2004

Shoemaker and Mattare
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Arlington, VA 22202

EXAMINER

VANATTA, AMY B

ART UNIT PAPER NUMBER

3765

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,635

Applicant(s)

BERG ET AL.

Examiner

Amy B. Vanatta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. No drawings were received with this application, however the drawings from the priority documents have been used for examination purposes. Formal drawings are now required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites "the guide elements" (line 6) without antecedent basis.

Regarding claims 19, 25, and 33, the phrase "such as" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 22 recites "a leasing comb" (line 1), however it is unclear whether this leasing comb is the one recited previously in claim 19, or whether this is an additional leasing comb.

Claim 22 is indefinite in reciting "which is provided with" (line 3) since it is unclear to what structure "which" refers.

Claim 22 recites "the arrangement of interstices in the guide elements" (lines 2-3) without proper antecedent basis.

Claim 23 recites "the interstices" (line 1) and "the aligning projections" (line 2) without antecedent basis.

In claim 28, "preferably " renders the claim indefinite because it is unclear whether the limitation(s) following the term are part of the claimed invention.

Claim 33 is indefinite in claiming a treatment device to which is "allocated" a leasing comb. It is unclear whether the leasing comb is actually being claimed in addition to the treatment device. If so, the combination of the treatment device and leasing comb should be more clearly claimed.

Claim 34 is indefinite in reciting "wherein said guide elements there is allocated". Such wording is confusing. Also, the term "allocated" is confusing and it is unclear whether the structure following this term is actually being claimed as forming part of the invention.

Claim 35 recites "the formed path" without antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 19, 20, 22, 24-28, 32-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3029987 to Brandenberger.

DE 3029987 to Brandenberger discloses a method for leasing threads into elements of a treatment device including leasing the threads into at least one leasing comb (10), fastening the threads onto the comb (by closing the comb as shown in Fig. 5), and subsequently pulling the threads with the leasing comb through the treatment device (i.e. to the comb 7 as shown in Fig. 7). The threads are transferred to the guide elements of the comb 7 as recited in claim 19. The movement of the leasing comb is temporarily interrupted while the threads are transferred from the leasing comb (10) to the guide element (7) and the comb (10) is positioned with respect to the guide element (7) before the threads are transferred to the guide element (see Fig. 7). The leasing comb comprises interstices (divisions T and t) for receiving the threads F whose arrangement corresponds to the spaces in the guide elements (see translation, page 17, lines 6-13), as in claim 22. Aligning projections (pegs 17) are in alignment with the leasing interstices, and the leasing comb is aligned with the guide elements (elements of comb 7) as in claim 22 (see Fig. 7). Regarding claim 24, the threads which are on the spools of the creel (1) as shown by Brandenberger are from a preceding treatment procedure to the extent recited in claim 24, and are pulled with the comb 10 as claimed. Regarding claims 25-26, Brandenberger discloses an auxiliary device for leasing threads which is formed as a leasing comb (10) comprising an arrangement for the ordered fastening of the threads on the leasing comb (Figs. 5-6) and including leasing interstices (T or t) arranged next to each other for receiving threads. The leasing comb

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has aligning elements (17) which are designed as aligning projections (pegs 17) which may be brought into engagement with interstices in the guide elements of comb 7, as in claims 27-28. Regarding claim 32, the projections 17 form holding elements as claimed, for the temporary receiving and holding of the leasing comb in receiving devices in the guide elements of comb 7 (see Fig. 7). Regarding claim 33, Brandenberger discloses a guide element (7) and a leasing comb (10) on which the threads are fastenable and from which the threads may be transferred as claimed. The spaces between the elements of the comb 7 provide receiving devices for the temporary holding of the comb 10 as in claim 34 (see Fig. 7). The device includes at least two mounts as in claim 36, the threads of the mounts being leasable and guidable as in claim 36 (see Figs. 1-3).

Allowable Subject Matter

6. Claims 21, 23, 29-31, and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

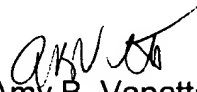
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is (703) 308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Amy B. Vanatta
Primary Examiner
Art Unit 3765

abv
January 23, 2003